IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.9554 OF 2004

Gautam Ahuja. ...Petitioner.

Vs.

Anita Gautam Ahuja. ...Respondent.

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Ms.K. C.Nichani for the Petitioner.

Mr.Vijay Nair with Ms.Bharati Narichani i/b.M/s. Vibha Juriscondult & Co. for the Respondent.

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CORAM : DR.D.Y.CHANDRACHUD, J.

April 13, 2005.

P.C. :

1. The Family Court has granted interim maintenance in the amount of Rs.15,000/- per month for the maintenance of the child with effect from the date of the application viz., 1st March 2004. The submission which was urged before the Court is that the amount which has been awarded is beyond the financial capacity of the Petitioner since it

is claimed that the Petitioner is working with a Company by the name of Prime Investrade Financial Services Ltd. as an Insurance and Investment Consultant on a salary of Rs.15,000/-. There are several reasons why the disclosure in respect of the income of the Petitioner cannot be accepted. In so far as the financial status of the Petitioner and his family is concerned, it is common ground that the family was in the occupation of a five bed room residential flat in a prime locality in a building known as Usha Kiran situated at Carmichel Road. The Court is informed by Counsel appearing on behalf of the Petitioner on the instructions of the Petitioner and his father who are present in the Court that the flat was sold at and for a consideration of Rs.6 crores and that the share of the Petitioner's father was Rs.1.5 crores. Two flats have been purchased at Bandra out of the sale proceeds. During the course of conciliation proceedings before the mediator who was appointed by this Court, one of the flats is stated to have been given out on licence. The attention of the Court has been drawn to the correspondence annexed to the Petition which shows that the Petitioner has shown his business address at a prime commercial location viz., at 504, Makers Bhavan No.3, 21, New Marine Lines, Mumbai-400 020. The documents

annexed at Exh.D (collectively) to the Petition would show that the Petitioner is in receipt of retainer fees from several Companies. The Petitioner is admittedly a member of two prestigious clubs in the City, namely, The Cricket Club of India and The National Sports Club of India. Having regard to these circumstances, a reasonable basis for inference can be made in regard to the financial position and social standing of the Petitioner.

2. Consistent with the fact that the Respondent has an occupation of her own, namely, that of conducting a beauty Saloon, no amount has been awarded to to her by way of maintenance. At this stage, during the pendency of the proceedings before the Family Court, it is necessary for the Petitioner to provide for the minor child - a daughter - who is four years' of age today. The interference of the Court under Article 227 is not warranted. The order of maintenance is consistent with the social status and the financial position of the parties, the paying capacity of the Petitioner and the needs of the child. In so far as the Petition by the wife is concerned, Counsel appearing on her behalf has not pressed that petition since her prayer for maintenance would be

considered at the final hearing by the Family Court.

3. The Respondent would be at liberty to withdraw the amount which has been deposited by the Petitioner in pursuance of the interim orders which were passed in these proceedings, towards the maintenance of her child.

4. The Family Court is requested to expedite the proceedings before it by setting down a time schedule for early disposal, preferably by the end of 2005.

5. There is no merit in the petition. The Petition is accordingly dismissed.

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